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I hereby certify that this AMENDMENT is being deposited with the U.S. Postal Service, with sufficient postage, as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on this 1st day of November, 2003.

Typed or Printed name of person signing this certificate:

Wendy A. Frick

Signed: _____

Wendy A. Frick

Customer Number

24024

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Montano, et al.

Serial No.: 09/972,758

Filed: October 5, 2001

For: **SUPPRESSORS OF HUMAN BREAST
CANCER CELL GROWTH**

Examiner: Ungar, Susan

Art Unit: 1642

Attorney Docket No.: 27708/04004

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

BEST AVAILABLE

**DECLARATION OF PRIOR INVENTION IN THE UNITED STATES
TO OVERCOME A CITED REFERENCE (37 CFR 1.131)**

I, Dr. Monica Montano state as follows:

1. I am one of the inventors of the above-identified patent application.

2. This declaration is to establish the invention of the nucleotide sequence recited in the claims of the above-described patent application prior to the publication date of the article by Kusuhara et al that was published in Biomed Res. 20 (5): 273-279, after its acceptance date of October 7, 1999. (hereinafter "Kusuhara et al.").

3. I and my co-inventor Dr. Bryan Wittmanⁿ did the following in the United States prior

to October 7, 1999.

- a. isolated a clone ("Pβ1-1")which contains a cDNA that encodes the entire EDG1 polypeptide (referred to hereinafter as "the cDNA fragment);
- b) sequenced the cDNA fragment; and
- c) did a Blast Search in the NCBI web page for a portion of this sequence.

4. The attached Appendices are submitted as evidence that I and Dr. Wittmanⁿ performed each of the actions described in paragraph 3. Appendices I, II and III are notebook pages or copies of documents and were maintained in Dr. Wittmanⁿ's notebook. The data in these Appendices was obtained prior to October 7, 1999. The dates have been redacted from these copies. Appendix I is a copy of a page from Dr. Wittmanⁿ's notebook describing the preparation of 6 clones which we manually sequenced. Appendix II shows the sequencing gel for the Pβ1-1 clone, marked as PB1. Appendix III shows the Blast Search for nucleotides within the coding sequence. The work that is documented in the attached Appendices was conducted in the United States.

5. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date : 11/3/03

Signature: 
Monica Montano

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